



500.40508X00

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: T. NISHIKADO, et al

Serial No.: 09/931,254

Filed: August 17, 2001

For: SERVICE SYSTEM

Group: 3625

Examiner: Y. Garg

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

February 15, 2005

Sir:

In response to the Restriction Requirement, Applicants hereby elect with traverse the fifth Species upon which reads claims 3, 4, 6, 7 and 12 for further prosecution on the merits. Applicants note that the Examiner indicated that claims 1 and 2 are generic. Therefore, prosecution should proceed based on claims 1-4, 6, 7 and 12.

With respect to the traversal, Applicants submit that the Examiner has not set forth a prima facie case for restriction being that at no point in the Office Action did the Examiner indicate the reasons for the restriction as required by MPEP 808. Specifically, MPEP 808 states that every restriction requirement has two aspects, (a) the reasons, as distinguished from the mere statement of conclusion, why the inventions as claimed are either independent or distinct, and (b) the reasons for

insisting upon restriction therebetween. At no point has the Examiner given any reasons why restriction between the various species identified in the Office Action is required. Thus, the restriction requirement is completely improper.

Even beyond the above, the Examiner has not identified independent inventions as required under MPEP 808.01. The Examiner has merely identified alleged species which corresponds to claims. However, all of the claims 2-19 all depend directly or indirectly on claim 1. Thus, it would be impossible for any of such claims as required for mutually exclusive species to recite features not recited in other claims since all of the claims depend from the same source namely claim 1.

Therefore, Applicants respectfully request the Examiner to reconsider and withdraw the restriction requirement and examine the application based on all of the currently pending claims namely claims 1-19.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (500.40508X00).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

  

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